

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0907**

State of Minnesota,
Respondent,

vs.

Anthony Randal-Ashley Villebrun,
Appellant.

**Filed May 8, 2023
Affirmed
Ross, Judge**

Becker County District Court
File No. 03-CR-20-1457

Keith Ellison, Attorney General, Ed Stockmeyer, Assistant Attorney General, St. Paul, Minnesota; and

Brian W. McDonald, Becker County Attorney, Detroit Lakes, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Peter H. Dahlquist, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Segal, Chief Judge; and
Ross, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

A jury found Anthony Villebrun guilty of financial transaction card fraud after hearing testimony and receiving evidence of Villebrun tendering a stranger's stolen debit card at three establishments within about an hour after the card's theft. Villebrun maintains

that the trial evidence is insufficient to prove that he knew that the cardholder did not consent to his using the debit card. Because the circumstantial evidence leads only to the reasonable conclusion that Villebrun knew the card was stolen, we affirm.

FACTS

A Detroit Lakes home-improvement-store employee in July 2020 saw her purse sitting in an aisle instead of at her workstation where she left it. She discovered that her driver's license, cash, and debit card were missing from inside it. The employee called her bank and the police to report the theft. The employee's name was printed on her debit card.

A police officer viewed surveillance-video footage and saw a woman the officer recognized as Ashley Ashley enter the store.¹ While police viewed the video, the employee received a bank alert on her cell phone notifying her that someone was attempting to make a \$720.46 purchase using her debit card at L&M Fleet Supply. The employee then examined her bank statements and discovered that her card had also been used within the previous hour at a gas station and a Walmart.

Officers contacted the three establishments to recover receipts from some of the transactions and view video footage taken from the L&M Fleet Supply and Walmart surveillance cameras. They saw appellant Anthony Villebrun in each video at the register standing beside Ashley, who is his sister, and tendering payment using the stolen debit card. Within an hour after the theft, Villebrun had used the card to purchase or attempt to purchase \$1,156.03 worth of goods: \$375.04 for a phone, shirts, lights, and beverages at

¹ The district court, counsel, and witnesses at times referred to her as "Ashley Villebrun," but at trial she clarified that "Ashley Ashley" is her correct name.

Walmart; \$60.53 at a gas station (Villebrun also testified to spending an additional \$20 at the gas station); and \$720.46 for cleaning supplies, pepper spray, snack mix, a surge protector, an extension cord, a stun gun, an axe, a crossbow, and arrows at L&M Fleet Supply.

The state charged Villebrun with financial transaction card fraud. At trial, the employee, a police officer, and two retail-store employees testified to the facts just outlined. Jurors also received other evidence, including photographs at L&M Fleet Supply showing Villebrun standing with Ashley at the register, the employee's bank statement, and receipts of Villebrun's transactions.

Villebrun and Ashley testified in Villebrun's defense, asserting that Villebrun used the card to make the purchases without knowing it had been stolen. But their testimony was conflicting. Ashley testified that she stole the card, saw a cardholder's name printed on it, and told Villebrun that the card belonged to her friend who had given her permission to use it. In contrast, Villebrun testified that Ashley told him that the card belonged to her and that he spent "a lot of time looking at [the] card," which, he claimed, did not bear any person's name.

The jury found Villebrun guilty of financial transaction card fraud. The district court convicted him and sentenced him to serve 18 months in prison. Villebrun appeals.

DECISION

Villebrun challenges his conviction, arguing that the evidence was insufficient to convict him of financial transaction card fraud. Among other methods not relevant here, a person commits financial transaction card fraud if he, "without the consent of the

cardholder, and knowing that the cardholder has not given consent, uses or attempts to use a card to obtain the property of another.” Minn. Stat. § 609.821, subd. 2(1) (2018). Villebrun contests his conviction based on the second element only, maintaining that the evidence was insufficient to prove that he knew that the cardholder had not consented to his using the card. For the following reasons, the argument fails.

Because the state relied only on circumstantial evidence to prove that Villebrun knew that the cardholder had not consented to his using the card, we will review his insufficient-evidence assertion by applying the two-step, circumstantial-evidence standard of review: we first determine the circumstances proved, and then we decide whether those circumstances are consistent with guilt and inconsistent with any rational hypothesis other than guilt. *See State v. Silvernail*, 831 N.W.2d 594, 598–99 (Minn. 2013). We construe any conflicting evidence in the light most favorable to the verdict. *State v. Tschew*, 758 N.W.2d 849, 858 (Minn. 2008). The circumstances proved foreclose Villebrun’s asserted hypothesis that he did not know that the cardholder had not consented to his using her card.

The circumstances proved point only to Villebrun’s guilt. His sister stole the debit card and, within minutes after her theft, she gave the card to Villebrun to make purchases. Villebrun testified that he thought the card belonged to his sister. But the card, which Villebrun viewed, bore the cardholder’s name, not his sister’s. Villebrun purchased or attempted to purchase more than \$1,000 of merchandise within an hour after the employee reported the card stolen. Ashley stood beside Villebrun while he used the card. Villebrun attempted to make purchases with the card even after the card was declined. This evidence not only supports the jury’s finding that Villebrun knew that the cardholder had not

consented to his using the card, it renders absurd the notion that he lacked that knowledge. Because Villebrun's proffered hypothesis of innocence is unreasonable, we affirm the conviction.

Affirmed.